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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/938,001	08/22/2001	William Lunceford Barnett	50603-3	1108

7590 11/19/2004

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EXAMINER

BUTLER, DOUGLAS C

ART UNIT

PAPER NUMBER

3683

DATE MAILED: 11/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/938,001	BARNETT, WILLIAM LUNCEFORD
	Examiner	Art Unit
	Douglas C. Butler	3683 <i>WJ</i>

~ The MAILING DATE of this communication appears on the cover sheet with the correspondence address ~

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 09 August 2004.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1,2,4,5,7,8,10-16,18,20,21 and 23-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-2,4-5,7-8,10-16,18,20-21,23-27 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 09 August 2004 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____. |

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DETAILED ACTION

1. The drawing filed Aug. 9, 2004 is acceptable.
2. Claims 1-2, 4-5, 7-8, 10-16, 18, 20-21 and 23-27 are pending.
3. Claims 3, 6, 9, 17, 19 and 22 have been canceled.
4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 25-27 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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The use of "type" in claim 25, lines 2, claim 25, line 3 and at both occurrences of claim 27, line 6 is indefinite. See MPEP 2173.05(b).

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-2, 4-5, 7-8, 10-16, 20, 23-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Frait (4398252), of record, in view of Eccleston et al (6615125), newly cited.

Fig. 1 of Frait discloses a brake controller system including master cylinder 13, master cylinder brake pressure sensor 16, electrically actuated trailer brakes 19, 20, CPU on brake control unit 17. Elements 26, 27, 34 are readable as the "voltage

booster" in that operation of 26, 27, 34 gives an additional supply of voltage or current to the electrical brake as per column 3, lines 40-68 of Frait.

Note temperature compensating circuit 58 as per column 9, lines 7-9.

Frait appears to lack the newly presented feature added to each of the independent claims 1, 14 and 15 as to detecting inadequate braking and adjusting "without a manual input". Applicant appears to correctly state on page 11 of the response filed Aug. 9, 2004 that "Frait discloses a manual gain controller, which allows the vehicle driver to compensate for different loads in the towed vehicle by manually adjusting the gain control. (Frait, column 3, lines 35-45). This adjustment of the gain control allows the voltage to the brakes to be boosted only manually. Frait does not teach, allude to, or anticipate, a CPU able to automatically detect inadequate braking, without manual input, and in response to send a voltage boost to the to the brake activator."

The secondary reference to Eccleston et al (125) teaches automatically adjusting gain and thus the boosted voltage based upon a variety of criteria such as temperature as per the last three lines of Abstract, column 2, lines 4-7, column 10, lines 32-54, column 13, lines 1-3, etc.

It would have been obvious at the time the invention was made to one having ordinary skill in the art to which the invention pertains to modify the principal reference to Frait to modify the gain control to be automatic as taught by Eccleston et al in order to better adjust the brakes without having to rely upon the skill or intervention of the user of the Frait brake control system to accomplish the task. Additionally, the examiner notes

that MPEP 2144.04 states that automating (making automatic) a process or adjustment which was previously manual is not sufficient to distinguish over the prior art. See In re Venner, 120 USPQ 193, 194 (CCPA 1958). Re the newly presented claims, the features are obvious variations in the operation of Frait, as modified, to better regulate braking.

8. Claims 18 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Frait in view of Eccleston et al as combined in paragraph 7 above, further in view of Rossigno (3790807), of record.

The principal reference Frait as modified discloses the invention substantially as claimed but does not disclose the feature directed to the visually displaying information of the brake operation of the trailer to apprise the operator in the tractor.

The tertiary reference to Rossingno (3790807) teaches a visual indicator 170 for permitting the vehicle operator to know when the trailer brakes have been activated.

It would have been obvious at the time the invention was made to one having ordinary skill in the art to which the invention pertains to modify the principal reference to Frait to include a visual brake and display/control panel indicator as taught by Rossigno (379087) to permit the vehicle operator to know when the trailer brakes have been activated.

9. Applicant's arguments in the response have been considered but are not convincing for the reasons indicated above.

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

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§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

11. Any inquiry concerning this communication should be directed to Exmr Butler at telephone number (703) 308-2575.

[REDACTED]
[REDACTED]

 11/18/04

DOUGLAS C. BUTLER
PRIMARY EXAMINER

AU3683

Butler/vs
November 16, 2004